

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTOINE FINNELL MCCULLOUGH,

Defendant-Appellant.

UNPUBLISHED
November 8, 2011

No. 298086
Wayne Circuit Court
LC No. 10-001855-FH

Before: SERVITTO, P.J., and CAVANAGH and STEPHENS, JJ.

PER CURIAM.

Following a jury trial, defendant appeals as of right his convictions for possession of a firearm by a felon, MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b. The trial court sentenced defendant as an habitual offender, third offense, MCL 769.11, to 2-1/2 to 10 years' imprisonment for his possession of a firearm by a felon conviction, and five years' imprisonment for his second offense felony-firearm conviction. The sentences are to be served consecutively. We affirm.

On appeal defendant argues the trial court erred in permitting the prosecution to question him regarding his use of aliases. A trial court's evidentiary rulings are reviewed for abuse of discretion. *People v Lukity*, 460 Mich 484, 488; 596 NW2d 607 (1999). Where evidentiary rulings involve a preliminary question of law, the question of law is reviewed de novo. *People v Katt*, 468 Mich 272, 278; 662 NW2d 12 (2003).

Evidence regarding a defendant's use of aliases may be admitted when relevant to defendant's credibility. *People v Messenger*, 221 Mich App 171, 180; 561 NW2d 463 (1997). In determining whether evidence of aliases is relevant, simply having an alias, by itself, cannot be supposed to reflect upon credibility; numerous innocent reasons exist for use of an alias. *Thompson*, 101 Mich App 609, 613; 300 NW2d 645 (1980). "[W]hat detracts from such a witness's veracity is the specific ignoble purpose for which the alias was employed." *Id.* at 614.

We find the prosecutor's questions regarding defendant's use of aliases were irrelevant to his credibility. While the prosecution suggested defendant's use of aliases spoke to "his character for truth and dishonesty" there is no indication, other than prosecution's insinuation, that defendant adopted an alias for any dishonest purpose. In offering evidence of defendant's use of other names, without offering a corresponding ignoble purpose, the prosecution unfairly asked the jury to conclude that "defendant may have been involved in some nefarious activity,

unspecified as to time, nature and circumstances.” *Id.* The trial court erred in concluding defendant’s mere use of aliases, without more, had any bearing on his credibility.

We nevertheless find the error in admitting defendant’s use of aliases does not merit reversal. The great weight of the evidence supports defendant’s convictions. A testifying witness, two testifying police officers, and unnamed residents of the apartment complex saw defendant with a gun. When defendant saw police, he fled the apartment building, gun in hand.¹ He took refuge in another apartment in the complex where police found him hiding in the bathroom. In light of the substantial evidence against him, the prosecution’s questions regarding defendant’s aliases were inconsequential to his conviction. Cross-examination regarding defendant’s use of aliases lasted only a few moments, and was never mentioned again by the prosecution. The questions were “few and not highly inflammatory.” *Id.* at 614. Given the substantial evidence against defendant, any error in admitting evidence relating to his use of assumed names was harmless as “it is [not] more probable than not that a different outcome would have resulted without the error.” *Lukity*, 460 Mich at 495-496.

Affirmed.

/s/ Deborah A. Servitto
/s/ Mark J. Cavanagh
/s/ Cynthia Diane Stephens

¹ Evidence of flight may support a finding of “consciousness of guilt.” *People v Goodin*, 257 Mich App 425, 432; 668 NW2d 392 (2003) (quotation omitted).